IN THE HIGH COURT OF PUNJAB & HARYANA CHANDIGARH

Criminal Revision No.494 OF 1995
Date of Decision: September 24, 2007

TEJPAL SINGH

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

. . .

CORAM: HON'BLE MR. JUSTICE A.N.JINDAL

Present: Mr. Sandeep Mann,Advocate,
for the petitioner.
Mr. Anter Singh Brar,DAG Punjab.

A.N.JINDAL, J

Assailed in this petition is the judgment dated 12.07.1995 passed by Addl. Sessions Judge, Fatehgarh Sahib dismissing the appeal of the petitioner against the judgment dated 17.11.1994 passed by the Judicial Magistrate Ist Class, Fatehgarh Sahib convicting him under Sections 304-A, 338 and 279 IPC and sentencing him to undergo RI for one year and to pay a fine of Rs. 2,000/- under Section 304 A IPC and RI for six months each under Section 338 IPC and 279 IPC.

It was further ordered that the fine if deposited would be paid to the injured Avtar Singh and the legal heirs of the deceased Kirpal Singh by way of compensation.

The facts necessary for disposal of the instant

petition are that the complainant Avtar Singh son of Ranjit Singh (hereinafter referred to as the 'complainant') recorded the statement before ASI Sat Narain of Police Station, Khamanon that on 01.06.1989 he alongwith his friend Kirpal Singh had come to see his brother Harpal Singh at Chandigarh. On 02.06.1989 at 7 AM when both started returning to their village Nandpur. Police Station Sahnewal on motor cycle No. DDX-4246 make 'Yamaha' and when they reached 3 KM from Khamanon towards Ludhiana, the petitioner while driving bus No.PJG-2871 rashly and negligently hit the motor cycle which the complainant was driving on quite correct side injuring Avtar Singh and Kirpal Singh. Both of them were shifted to the hospital where Kirpal Singh succumbed to the injuries.

On the aforesaid statements, case was registered on 02.06.1989, ASI, Sat Narain handled the investigation; prepared the rough site plan of the place of occurrence; recorded the statements of the witnesses; took bus No. PJG 2871 and motor cycle No.DDX 4246 and one truck which was going ahead into possession. On completion of investigation challan was presented in the Court. The trial ended in conviction and the appeal was also dismissed.

At the very outset the conviction recorded by both the Courts below have not been assailed by the counsel for the petitioner. Even otherwise the records reveal that both eye-witnesses namely Avtar Singh(PW8) and Harbans Singh (PW3) have consistently picturised factual scenario leading to

the occurrence and their testimonies have been corroborated by the medical evidence. No plausible defence has been led by the accused, consequently, the judgment of conviction is maintained.

Having deliberated over the other contention regarding quantum of sentence, occurrence took place as far back as in the year 1989. The trial was completed on 17.11.1994 and he had also to face agony during the pendency of the appeal and the present proceedings. The accused is a first offender. No bad antecedents of the petitioner have been brought forward in order to prove that he ever committed such crime prior to or after the present incident. Consequently, ends of justice would be met if the petitioner is extended benefit of probation while extending benefit under the Probation of Offenders Act 1958, however, adequate compensation could be granted to the legal heirs of the deceased.

Consequently, while dismissing the petition, sentence passed against the petitioner is modified to the extent that the accused be released on probation under Section 4(1) of the Probation of Offenders Act, 1958 on his executing a bond in the sum of Rs.5000/- with one surety in the like amount to the satisfaction of the trial Court for a period of one year within which period he shall continue to be of good behaviour and keep peace and in case of breach of conditions of the bond he will be ready to serve sentence as and when called for.

However, he is directed to pay a sum of Rs. 25,000/-on account of compensation to the LRs of the deceased equally within 3 months from today failing which the impugned judgment shall remain intact.

(A.N.JINDAL)
JUDGE

September 24, 2007
Ruchika

To be referred to reporter: Yes/No